IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 437 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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TRANSGENIKS

Versus

STATE OF GUJARAT

Appearance:

1. Civil Revision Application No. 437 of 2002

Mr.Shelat for

MR GM JOSHI for Petitioner No. 1

Mr.Bukhari, learned AGP for Respondent No. 1-2

NOTICE SERVED BY DS for Respondent No. 3-4

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 30/04/2002

ORAL JUDGEMENT

1. Rule. Mr. Bukhari, learned AGP waives service of rule on behalf of respondents Nos.1 and 2. By consent rule is fixed forthwith.

2. Heard Mr. Shelat for Mr.Joshi and Mr. Bukhari, learned AGP. The petitioner has challenged the order passed by the learned Civil Judge (S.D.), Gandhinagar below Application Exh.1 in a suit filed by the petitioner against the respondents wherein the application was submitted by the petitioner - plaintiff for permission under Section 80(2) of C.P.C. on the ground highlighted in the application. The learned trial Judge has while considering the application, rejected the said application by observing that there is no urgency to bring action as found from the plaint and in absence of any urgency, the learned Judge has rejected the application.

3. Considering the submissions and on going through the Application and the order, Mr. Bukhari, learned AGP is also not in a position to support the said order. Accordingly, learned trial Judge was not right while rejecting the said application on the ground that there is no urgency to bring the action by way of challenge. The order passed by the learned trial Judge deserves to be set aside and the same is accordingly set aside. Trial court is directed to examine the application on merits in respect of the prayer for injunction. Rule is made absolute accordingly. Direct service is permitted.

Dt:30.4.2002 (D.K.Trivedi,J)

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